

## **DECISION MEMORANDUM**

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER REDFORD  
COMMISSIONER SMITH  
COMMISSION SECRETARY  
LEGAL  
WORKING FILE**

**FROM: CAROLEE HALL**

**DATE: SEPTEMBER 19, 2011**

**RE: APPLICATION OF QWEST CORPORATION (QWEST) WITH  
NATIONAL COMTEL NETWORK, INC. (NATIONAL) FOR AN  
INTERCONNECTION AGREEMENT BETWEEN THE COMPANIES;  
CASE NO. QWE-T-11-09.**

### **BACKGROUND**

Under the provision of the federal Telecommunications Act of 1996, interconnection agreements must be submitted to the Commission for approval. 47 U.S.C. § 252(e)(1). The Commission may reject an agreement adopted by negotiations only if it finds that the agreement: (1) discriminates against a telecommunications carrier not a party to the agreement; or (2) implementation of the agreement is not consistent with the public interest, convenience and necessity. 47 U.S.C. § 252(e)(2)(A). As the Commission noted in Order No. 28427, companies voluntarily entering into interconnection agreements “may negotiate terms, prices and conditions that do not comply with either the FCC rules or with the provision of Section 251 (b) or (c).” Order No. 28427 at 11 (emphasis in original). This comports with the FCC’s statement that “a state commission shall have authority to approve an interconnection agreement adopted by negotiation even if the terms of the agreement do not comply with the requirements of [Part 51].” 47 C.F.R. § 51.3.

### **CURRENT APPLICATION**

On August 29, 2011, this Commission received an Application from Qwest requesting approval of its Interconnection Agreement with National Comtel Network, Inc. See Case No. QWE-T-11-09. Staff contacted Qwest regarding National’s ability to conduct business in Idaho

because the Company was not registered with the Secretary of State. On September 8, 2011, National completed its registration with the Secretary of State and is now in good standing and able to conduct business.

#### **STAFF ANALYSIS**

Staff has reviewed the Application for the Interconnection Agreement between Qwest and National. Staff is confident that the Interconnection Agreement meets the terms and conditions of this Commission and is consistent with the pro-competitive policies of this Commission and the Idaho Legislature. Staff believes that the Interconnection Agreement merits the Commission's approval.

#### **COMMISSION DECISION**

Does the Commission agree?



Carolee Hall

i:\udmemos\interconnection agreements\QWE-T-11-09 Qwest and National Comtel Network, Inc.